

## **REMARKS**

Claims 2, 3, 4, 16, 19, 46-55, and 58 have been amended. Claims 1-59 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### **Specification Objection:**

The Examiner objected to the disclosure because the specification is devoid of terms such as “computer program product” and “computer-readable medium” as recited in claims 44-45, and 46-55, respectively. Paragraph [1012] on page 3 (corresponding to paragraph [0014] of the published application) has been amended to include the following description: “The software may be encoded in a computer program product or computer readable storage medium, such as a disk, a tape or another magnetic, optical, or electronic storage medium.” Support for this amendment is found in original claims 44-45 and 46-55. Accordingly, no new matter has been added. Withdrawal of this objection is respectfully requested.

### **Section 101 Rejection:**

The Examiner rejected claims 46-55 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Examiner notes that claims 46-55 recite a computer readable medium, which is defined in claim 55 to include wireless or other communication media. These claims have been amended to recite a computer readable storage medium and to remove references to wireless and other communications media. Therefore, removal of the rejection of these claims under 35 U.S.C. § 101 is requested.

### **Section 103(a) Rejection:**

The Examiner rejected claims 1-59 under 35 U.S.C. § 103(a) as being unpatentable over Dice et al. (U.S. Patent 6,799,236) (hereinafter “Dice”) in view of

Newell et al. (U.S. Patent 5,918,248) (hereinafter “Newell”). Applicants respectfully traverse this rejection for at least the following reasons.

The Dice patent is not prior art to the present application for rejections under 35 U.S.C. § 103. According to 35 U.S.C. § 103(c), art which qualifies as prior art only under § 102(e), (f) or (g) is not available for rejections under § 103 if that art and the subject matter of the application under examination were owned by or subject to an obligation of assignment to the same assignee at the time the invention was made. The Dice patent qualifies as prior art only under § 102(e), (f) or (g) since it was not published or patented until after the filing date of the present application. At the time the invention was made, the subject matter of present application and the Dice patent were both owned by or subject to an obligation of assignment to the same assignee, Sun Microsystems, Inc. Therefore, per 35 U.S.C. § 103(c), the Dice patent is excluded as available prior art for rejections under 35 U.S.C. § 103 in regard to the present application. Accordingly, withdrawal of this rejection is respectfully requested.

## **CONCLUSION**

Applicants respectfully submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/6000-33600/RCK.

Respectfully submitted,

/Robert C. Kowert/

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